

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID B. GRAPES

Plaintiff,

CIVIL ACTION NO. 2:20-CV-01678

The Honorable Robert J. Colville

v.

LIDAN SEPSO U.S. HOLDING  
CORPORATION, a Delaware corporation,  
and WW PATTERSON COMPANY

Defendants.

**FILED**

**DEC 03 2020**

CLERK U.S. DISTRICT COURT  
WEST. DIST. OF PENNSYLVANIA

**PLAINTIFF'S RESPONSE IN OPPOSITION TO THE DEFENDANTS' MOTION  
TO DISMISS THE PLAINTIFF'S COMPLAINT**

Plaintiff, David B. Grapes ("Plaintiff"), moves this Court to summarily deny the Defendants, Lidan Sepson US Holding Corporation ("Lidan Sepson") and WW Patterson Company ("WW Patterson") (together, "Defendants"), motion to dismiss the Plaintiff's Complaint in its entirety. For the reasons stated herein, and those set forth in the Plaintiff's Response Brief in Opposition to the Defendants' to Dismiss the Plaintiff's Complaint. In support of this Opposition, the Plaintiffs state:

1. The Plaintiff moves this Court to summarily deny the Defendants' Motion to dismiss because the movant party, the Defendants, through the Defendants' Counsel, failed to make any good faith efforts to meet and confer with the nonmovant, *pro se* Plaintiff before filing the Motion to Dismiss and after Judge Colville's Order dated November 12, 2020.

2. The Plaintiff moves this Court to deny the Defendants' Motion to dismiss because the Plaintiff did properly serve the Defendant Lidan Sepson under Fed. R. Civ. P. 12(b)(5) in accordance with Fed. R. Civ. P. 4(h)(1)(a) and Rule 424 of the Pennsylvania Rules of Civil Procedure.

3. The Plaintiff moves this Court to deny the Defendants' Motion to dismiss because the Plaintiff properly added WW Patterson Company to this action. The Allegheny County Department Records has docketed the Praecipe for Reinstatement filed on October 7, 2020; the Defendants have accepted service of process; and Defendants removed the civil action from the Court of Common Pleas to US District Court. The Plaintiff made the changes and added Defendant WW Patterson Company before the Defendant Lidan Sepson was served with the Plaintiff's Complaint, and in accordance with Rule 401(b)(2) of the Pennsylvania Rules of Civil Procedure. In review of the Defendants' argument, alternatively, the Plaintiff, if ordered by the Honorable Court, would take any actions necessary to cure this alleged deficiency.

4. The Plaintiff moves this Court to deny the Defendant's motion to dismiss Defendant WW Patterson Company from the Complaint. Defendant WW Patterson Company is a real party in interest and the Plaintiff states plausible claims against it.

5. The Plaintiff moves this Court to deny the Defendant's motion to dismiss the Complaint under FRCP 12(b)(6). Plaintiff Complaint, composed of six different counts of breach of contract including violation 26 USC § 7434, filing of fraudulent information Tax Returns, is a fact based pleading complaint, originally filed in the Court of Common Pleas of Allegheny County, Pennsylvania. Pennsylvania is a "fact pleading" state. The Plaintiff's Complaint clearly demonstrates that the Plaintiff is entitled to relief and contains sufficient factual matter to state a claim that is plausible on its face. The Plaintiff's Complaint states clear,

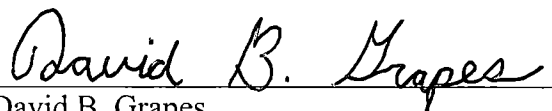
concise, intelligible, detailed facts and comprehensible claims against the Defendants. The Defendants can reasonably respond to the Complaint.

6. The Plaintiff moves this Court to deny the Defendants' motion to dismiss Plaintiff's Complaint under FRCP 12(f). The Plaintiff's allegations are not redundant, immaterial, impertinent and/or scandalous. The Plaintiff's Complaint is not vague, not ambiguous and doesn't have a major omission to render it unanswerable. The Plaintiff's Complaint is clear and unequivocally provides Defendants with the requisite notice of the claims against them. The Defendants can reasonably respond to the Complaint.

7. The Plaintiff moves this Court to deny the Defendant's motion to dismiss the Plaintiff's Complaint. The Plaintiff has pleaded in his Complaint that the Defendants' have filed a fraudulent information tax return Form 8883, with the Internal Revenue Service, a violation of 226 U.S. Code § 7434. In an action brought under 226 U.S. Code § 7434, the Court is required to include a finding of the correct amount which should have been reported in the information return.

WHEREFORE, the Plaintiff respectfully requests that this Court deny the Defendant's Motion to Dismiss and issue the attached proposed order.

Respectfully submitted,

  
David B. Grapes  
Pro Se Plaintiff

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